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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,927	10/19/2001	Franc J. Camara	MS1-262USC2	3524
22801	7590	03/22/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BAUTISTA, XIOMARA L	
			ART UNIT	PAPER NUMBER
			2173	9

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,927

Applicant(s)

FRAN J. CAMARA ET AL

Examiner

X L Bautista

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-39 and 50-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-39 and 50-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u> </u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/31/03 have been fully considered but they are not persuasive.

A. Applicant argues that Lavendel is "silent with respect to any 'application program interface' having 'methods for performing' any function of 'querying the imaging device for properties', as recited in claim 37...[Lavendel] merely provide[s] different user modalities for accessing and displaying information already contained within the computing system or in a TWAIN data source and for image manipulation." (page 18, lines 9-13).

In response, Lavendel discloses a user interface for an image acquisition device (scanner, digital camera, etc.) that includes a preview area for displaying a preview image and a control area for displaying a property sheet having a plurality of property pages having an interface for image acquisition device control.

Lavendel teaches that manipulation of the image acquisition device control is reflected in the preview image. The invention provides common interfaces for common features of different image acquisition devices. The property sheet can also have dynamically-loaded device-dependent property pages (particular scanner or camera), (col. 1, lines 59-64; col. 2, lines 35-67; col. 3, lines 6-12). Lavendel

discloses a TWAIN data source, which is a dynamic link library that provides device driven functionality and a TWAIN user interface to an image processing application.

The invention provides means for supporting a dynamically-loaded device dependent user interface (col. 7, lines 1-32). In short, Lavendel's invention includes a computer connected to an image acquisition device (fig. 1); an interface is displayed having selectable device objects (fig. 3); the interface enables the user to choose a device object (fig. 3); the interface includes a preview window that enables the user to capture an image using the imaging device (fig. 7); and querying the imaging device for properties (col. 9, lines 7-22; col. 10, lines 41-59).

B. Applicant argues that Lavendel does not teach the limitations recited in claim 38 (page 19, lines 9-17).

In response, Lavendel teaches a computer that communicates with an image acquisition device (scanner, digital camera, etc.) for controlling the same (col. 6, lines 1-12); reads properties associated with the device and the image taken by the device; and manipulates pictures stored in a memory of the device (col. 7, lines 1-32; col. 9, lines 7-22; col. 10, lines 41-59). A digital camera has a storage medium for storing photographed images electronically instead of on traditional film, then the images can be downloaded to the computer using software supplied with the camera (two way communication).

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C. Applicant argues that Lavendel does not teach the limitations recited in claim 39 (page 19, lines 18-23).

See response to argument B. Lavendel teaches an application program interface embodied on a computer-readable medium having methods for communicating with the image acquisition device for controlling the same, and reading properties associated with the device (col. 7, lines 55-63).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 37-39 and 55-61 are rejected under 35 U.S.C. 102(e) as being anticipated by *Lavendel et al* (US 6,587,129 B1).**

Claims 37 and 55:

Lavendel discloses a user interface for image acquisition devices including a control area for displaying a property sheet that has a plurality of property pages,

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each having an interface for image acquisition device control and a tab describing the control provided by the property page (displaying a user interface to enable the user to capture an image), (abstract; col. 2, lines 63-67; col. 3, lines 1-7).

Lavendel teaches a user interface that enables a user to create a device object for an imaging device and to choose the device object (col. 1, lines 20-67; col. 2, lines 1-60; col. 3, lines 44-66; col. 4, lines 1-46; col. 9, lines 7-67; col. 10, lines 1-38; figs. 3, 7-11e). Lavendel teaches querying the imaging device for properties (col. 3, lines 8-67; col. 4, lines 1-40).

Claims 38, 56 and 58:

See claim 37. Lavendel teaches that the invention can be implemented in an image acquisition device such as a camera (col. 1, lines 31-45).

Claims 39 and 57:

See claim 37. Lavendel teaches that the invention can be implemented in an image acquisition device such as a scanner (col. 1, lines 31-45, 51-58; col. 2, lines 35-42; col. 3, lines 18-24).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lavendel* and *IBM Technical Disclosure Bulletin* "Host System and Attached Non-Programmable Terminal with Open Parallel Port" published in 1995 (IBM, hereinafter).

Claims 50-53:

See claim 37. Lavendel teaches a first and second user interface portion having a graphics window including a user interface area having a menu and toolbar area and a context space separate from the menu and toolbar area (figs. 3, 7); the second user interface portion including a preview scan space within the context space, the preview scan space being initially empty; and a persistently-visible menu adjacent the preview scan space and within the context space (figs. 7-11e; col. 2, lines 63-67; col. 3, lines 1-24, 33-46). Lavendel does not teach that the preview scan space is configured to progressively display an image within the preview scan space to visually convey that the imaging device is scanning the image. However, IBM discloses an image scanning application programming interface (API) that can be added on a host system; the host application enabled to

have a menu where the user initiates image scanning. IBM teaches a Preview Mode, wherein data from the scanner could be displayed in an Online Setup Mode Screen so that the user can view the scanned image as the compressed data is passed to the work station controllers (WSC), (page 475 and 478). Therefore, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify Lavendel's user interface to include a preview scan space configured to progressively display an image within the preview scan space to visually convey that the imaging device is scanning the image because the user is enabled to see how the image or document is being scanned, check for errors, and cancel at any time in case he is not satisfied.

Claim 54:

See claims 37 and 50. Lavendel teaches a persistently-visible interface having menu lists options in the menu (fig. 7) that are particular to operating the imaging device, and includes control portions configured to facilitate user selection among imaging devices chosen from a group of different imaging devices (fig. 3), (col. 2, lines 63-67; col. 3, lines 1-24, 33-46).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

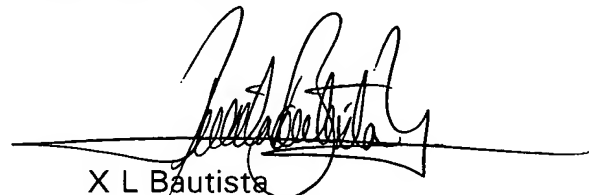
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X L Bautista whose telephone number is (703) 305-3921. The examiner can normally be reached on Monday-Thursday (8:00-18:00), Fridays Off.

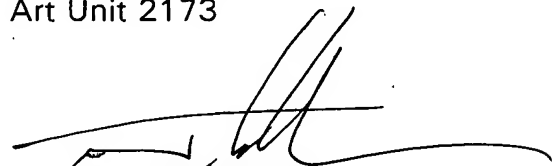
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



X L Bautista
Patent Examiner
Art Unit 2173



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SUPERVISORY PATENT EXAMINER
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xlb
March 16, 2004